

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: 7/20/05 - KW

Division: County Attorney

Bulk Item: Yes ☐ No ☒

Staff Contact Person: John R. Collins

AGENDA ITEM WORDING:

Approval of a Resolution directing the Supervisor of Elections to place on the ballot a referendum question regarding assessment of ad valorem taxes by the Key Largo Fire Rescue and Emergency Medical Services District.

ITEM BACKGROUND:

The Florida Legislature enacted Chapter 2005-329, Laws of Florida, establishing the Key Largo Fire Rescue and Emergency Medical Services District requiring a referendum of the electors of the District to approve assessing and imposing ad valorem taxes not to exceed one (1) mill and further requiring the referendum be held at the same time the initial Board of Commissioners of the District are elected.

PREVIOUS RELEVANT BOCC ACTION:

CONTRACT/AGREEMENT CHANGES: N/A.

STAFF RECOMMENDATIONS: Approval.

TOTAL COST: \$28,000.00

BUDGETED: Yes ☐ No ☒

COST TO COUNTY: \$28,000.00

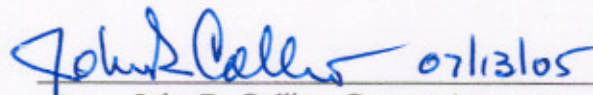
SOURCE OF FUNDS: _____

REVENUE PRODUCING: Yes ☐ No ☒

AMOUNT PER MONTH _____ **Year** _____

APPROVED BY: County Atty _____ OMB/Purchasing _____ Risk Management _____

DIVISION DIRECTOR APPROVAL:


John R. Collins, County Attorney

DOCUMENTATION: Included ☒ Not Required ☐

DISPOSITION: _____ **AGENDA ITEM #** _____

RESOLUTION NO. - 2005

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, DIRECTING THE SUPERVISOR OF ELECTIONS TO PLACE ON THE BALLOT A REFERENDUM QUESTION REGARDING ASSESSMENT OF AD VALOREM TAXES BY THE KEY LARGO FIRE RESCUE AND EMERGENCY MEDICAL SERVICES DISTRICT .

WHEREAS, the Legislature of the State of Florida has enacted Chapter 2005-329, Laws of Florida, establishing the Key Largo Fire Rescue And Emergency Medical Services District (the District); and

WHEREAS, said law requires a referendum of the electors of the District to approve the District's assessing and imposing ad valorem taxes not to exceed one (1) mill; and

WHEREAS, said law requires the referendum to be held at the same time that the initial Board of Commissioners of the District are elected; and

WHEREAS, it is found to be in the best interest of the residents of the Key Largo Fire Rescue And Emergency Medical Services District that the referendum be placed on a special election ballot to be voted upon on October 4, 2005; and

WHEREAS, Section 125.01(1)(y), Florida Statutes, provides, in pertinent part, that "any election costs, as defined in s. 97.021, associated with any ballot question or election... for the creation of a district shall be paid by the district..."; and

WHEREAS, Chapter 2005-329, Laws of Florida, did not provide for a source of funds to offset the costs incurred by the Supervisor of Elections to conduct the special election and referendum for the District; and

WHEREAS, the County is willing to advance funds, on behalf of the District, to the Supervisor of Elections to offset the costs of conducting the special election and referendum for the District; and

WHEREAS, the Supervisor of Elections has calculated the costs of the referendum and special election to be approximately \$28,000.00; now, therefore

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA THAT:

Section 1. The Board of County Commissioners now calls for a referendum to be conducted by the Supervisor of Elections on October 4, 2005, within the following area: All of Cross Key and that part of Key Largo from South Bay Harbor Drive and Lobster Lane to the southern boundary of the right-of-way County Roads 905 and 905A, which area comprises the lands within the District, on the following question:

AD VALOREM ASSESSMENT FOR KEY LARGO FIRE RESCUE AND EMERGENCY MEDICAL SERVICES DISTRICT.

SHALL THE KEY LARGO FIRE RESCUE AND EMERGENCY MEDICAL SERVICES DISTRICT LEVY AD VALOREM TAXATION UP TO 1 MILL PURSUANT TO SECTION 6 OF CHAPTER 2005-329, LAWS OF FLORIDA?

_____ Yes for the Levy.

_____ No against the Levy.

Section 2. The County Administrator is hereby directed to make the appropriate arrangements to immediately transfer to the Supervisor of Elections the sum of \$28,000.00 as and for the costs of the special election and referendum; and the County Administrator is further directed to recover this sum from the District after the collection by the District of its first ad valorem assessment, but not later than 3 years after October 4, 2005.

Section 3. This Resolution shall become effective upon the date of its adoption herein.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a meeting of said Board held on the 20th day of July A.D. 2005.

Mayor Spehar _____
Mayor Pro Tem McCoy _____
Commissioner Neugent _____
Commissioner Rice _____
Commissioner Nelson _____

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

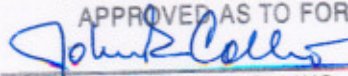
(Seal)

Attest: DANNY L. KOLHAGE, Clerk

By: _____
Deputy Clerk

By: _____
DIXIE M. SPEHAR
Mayor/Chairperson

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:


JOHN R. COLLINS
COUNTY ATTORNEY
Date 07/13/05

CHAPTER 2005-329

House Bill No. 1291

An act relating to the Key Largo Fire Rescue and Emergency Medical Services District, Monroe County; creating a special district; providing definitions; providing for creation, status, charter amendments, boundaries, and purposes; providing for a board of commissioners; providing for election and terms of commissioners; providing for employment of district personnel; providing for election of board officers; providing for compensation, oath, and bonds of commissioners; providing for powers, duties, and responsibilities of the board; providing for ad valorem taxes; providing a cap on the rate of taxation; providing for user charges; providing for impact fees; providing for authority to disburse funds; authorizing the board to borrow money; providing for use of district funds; requiring a record of all board meetings; authorizing the board to adopt policies and regulations; providing for the board to make an annual budget; requiring an annual report; authorizing the board to enact fire prevention ordinances; authorizing the district to appoint a fire marshal; authorizing the district to conduct inspections, establish and operate fire, rescue, and emergency medical services; providing for district authority upon annexation of district lands; providing for dissolution; providing immunity from tort liability for officers, agents, and employees; providing for district expansion; providing for construction and effect; providing for an exclusive charter; requiring a referendum; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Definitions.—As used in this act, unless otherwise specified:

(1) "Board" means the board of commissioners created pursuant to this act and chapter 191, Florida Statutes.

(2) "Commissioner" means a member of the board of commissioners of and for the district.

(3) "District" means the Key Largo Fire Rescue and Emergency Medical Services District.

Section 2. Creation; status; charter amendments; boundaries; district purposes.—

(1) There is hereby created an independent special fire control district incorporating lands in Monroe County described in subsection (2), which shall be a public corporation having the powers, duties, obligations, and immunities herein set forth under the name of the Key Largo Fire Rescue and Emergency Medical Services District. The district is organized and exists for all purposes and shall hold all powers set forth in this act and chapters 189 and 191, Florida Statutes.

(2) The lands to be included within the district are the following described lands on the island of Key Largo, in Monroe County, to wit:

All of Cross Key and that part of Key Largo from South Bay Harbor Drive and Lobster Lane to the southern boundary of the right-of-way County Roads 905 and 905A.

(3) The Key Largo Fire Rescue and Emergency Medical Services District is organized and exists for all purposes set forth in this act and chapter 191, Florida Statutes, including, but not limited to, providing fire protection and firefighting services, rescue services, and emergency medical services. Such emergency medical services shall not be the primary function of the district. The district shall have all other powers necessary to carry out these purposes, including the authority to contract with the Key Largo Volunteer Fire and Rescue Department, Inc., and the Key Largo Volunteer Ambulance Corps, Florida not-for-profit corporations, which corporations currently provide fire, rescue, and emergency medical services within the district boundaries; to purchase all necessary real and personal property; to purchase and carry standard insurance policies on all such equipment; to employ such personnel as may be necessary to carry out the purpose of said fire district; to provide adequate insurance for said employees; to purchase and carry appropriate insurance for the protection of all firefighters and personnel as well as all equipment and personal property on loan to the district; to sell surplus real and personal property in the same manner and subject to the same restrictions as provided for such sales by counties; and to enter into contracts with qualified service providers to carry out the purposes of the district.

(4) Nothing herein shall prevent the district from cooperating with the state or other local governments to render such services to communities adjacent to the land described in this section as evidenced by an executed agreement between the cooperating agencies as approved by the board.

(5) The district charter may be amended only by special act of the Legislature.

Section 3. Board of commissioners.—

(1) Pursuant to chapter 191, Florida Statutes, the business and affairs of the district shall be governed and administered by a board of five commissioners, who shall be qualified electors residing within the district and shall be elected by the qualified electors residing within the district, subject to the provisions of chapters 189 and 191, Florida Statutes, and this act. Each commissioner shall hold office until his or her successor is elected and qualified under the provisions of this act. The procedures for conducting district elections and for qualification of candidates and electors shall be pursuant to chapters 189 and 191, Florida Statutes. The members of the board shall serve on a nonpartisan basis for a term of 4 years each and shall be eligible for reelection.

(2) Notwithstanding section 191.005, Florida Statutes, the five members of the initial board shall be elected by the qualified electors residing within the district at a special election conducted by the Supervisor of Elections of

Monroe County to be held on or before October 4, 2005. At the initial election of the governing board, the candidate receiving the highest number of votes shall hold seat 1, the candidate receiving the second highest number of votes shall hold seat 3, the candidate receiving the third highest number of votes shall hold seat 5, the candidate receiving the fourth highest number of votes shall hold seat 2, and the candidate receiving the fifth highest number of votes shall hold seat 4. The three elected members for seats 1, 3, and 5 in the initial election under this act shall serve terms of 3 years each. The remaining two elected members for seats 2 and 4 in the initial election shall serve terms of 1 year each.

(3) Subsequent elections of board members shall coincide with the general elections of this state.

(4) Vacancies in office shall be filled by election, said election to be held coincidental with the next countywide general election to fill the remaining term of the seat vacated. The board may appoint a qualified elector of the district to act as commissioner until the vacancy is filled by election. A commissioner may be removed from office as provided by chapter 191, Florida Statutes, or for any reason that a state or county officer may be removed.

(5) All elections shall be noticed, called, and held pursuant to the provisions of the general laws of the state. The board shall, to the extent possible, coordinate all elections with countywide general or special elections in order to minimize cost. Elections shall be called through the adoption of an appropriate resolution of the district directed to the Board of County Commissioners of Monroe County, the Supervisor of Elections of Monroe County, and other appropriate officers of the county. The district shall reimburse county government for the actual cost of district elections. No commissioner shall be a paid employee of the district while holding said position.

(6) The board may employ such personnel as deemed necessary for the proper function and operation of the district.

(7) The salaries of district personnel and any other wages shall be determined by the board.

Section 4. Officers; board compensation; bond.—

(1) In accordance with chapter 191, Florida Statutes, each elected member of the board shall assume office 10 days following the member's election. Within 60 days after election of new members of said board as herein provided, the newly elected members shall organize by electing from their number a chair, vice chair, secretary, and treasurer. However, the same member may be both secretary and treasurer, in accordance with chapter 191, Florida Statutes. Nothing shall prevent the commissioners from electing a chair, vice chair, secretary, and treasurer annually.

(2) Three members of the board shall constitute a quorum. A quorum shall be necessary for the transaction of business.

(3) The commissioners may receive reimbursement for actual expenses incurred while performing the duties of their offices in accordance with

general law governing per diem for public officials. Each commissioner shall receive from the funds of the district compensation for his or her services in the amount of \$200 per month. Members may be reimbursed for travel and per diem expense as provided in section 112.061, Florida Statutes. Authorization for any additional compensation shall be pursuant to chapter 191, Florida Statutes.

(4) Each commissioner upon taking office shall take and subscribe to the oath of office prescribed by s. 5(b), Art. II, of the State Constitution and general law. Upon taking office and in accordance with chapters 189 and 191, Florida Statutes, each commissioner shall execute to the Governor, for the benefit of the district, a bond of \$5,000 with a qualified personal or corporate surety, conditioned upon the faithful performance of the duties of the commissioner's office and upon an accounting for all funds which come into his or her hands as commissioner. The premium for such bonds shall be paid from district funds.

Section 5. Powers; duties; responsibilities.—

(1) The district shall have and the board may exercise by majority vote all the powers and comply with the duties set forth in this act and chapters 189, 191, and 197, Florida Statutes, including, but not limited to, ad valorem taxation, bond issuance, and other revenue capabilities; budget preparation and approval; liens and foreclosure of liens; contractual agreements; and the adoption of ordinances and resolutions that are necessary to conduct district business if such ordinances do not conflict with any ordinance of a local general-purpose government within whose jurisdiction the district is located.

(2) The board shall have the right, power, and authority to levy annually ad valorem taxes against the taxable property within the district to provide funds for the purposes of the district in an amount not to exceed the limit provided in chapter 191, Florida Statutes.

(3) The methods for assessing and collecting ad valorem taxes, impact fees, or user charges shall be as set forth in this act and chapter 170, chapter 189, chapter 191, chapter 197, or chapter 200, Florida Statutes.

(4) The district's planning requirements shall be as set forth in this act and chapters 189 and 191, Florida Statutes.

(5) Requirements for financial disclosure, meeting notices, reporting, public records maintenance, and per diem expenses for officers and employees shall be as set forth in this act and chapters 112, 119, 189, 191, and 286, Florida Statutes.

Section 6. Ad valorem taxes.—

(1) The board shall have the authority to levy ad valorem taxes annually against all taxable property within the district to provide funds for the purposes of the district only upon the approval by a majority vote of those qualified electors of the district voting in a referendum election authorizing the use of ad valorem taxation not to exceed 1 mill.

(2) A referendum election of the electors of the district to authorize the use of ad valorem taxation not to exceed 1 mill shall be held by the supervisor of elections at the same time as the initial election of district commissioners in accordance with the provisions of general law relating to elections.

(3) Upon the approval of a majority of the electors voting at the initial election or at an election called by the board, the rate of taxation shall thereafter be fixed annually by resolution of the board without further approval by the electors, provided the rate of taxation shall not exceed 1 mill. The board shall have the authority to increase the millage rate above 1 mill only if a majority of the electors voting in a referendum election approve the increased millage rate in an amount not to exceed the limit provided in chapter 191, Florida Statutes.

(4) The levy and collection of ad valorem taxes shall proceed pursuant to general law.

Section 7. User charges.—The board shall have the authority to provide a reasonable schedule of charges for providing the following services:

(1) Special emergency services, including firefighting occurring in or to structures outside the district, motor vehicles, marine vessels, or aircraft or as a result of the operation of such motor vessels or marine vessels to which the district is called to render such emergency service.

(2) Fighting fires occurring in or at refuse dumps or as a result of an illegal burn, which fire, dump, or burn is not authorized by general or special law, rule, regulation, order, or ordinance and which the district is called upon to fight or extinguish.

(3) Responding to or assisting or mitigating emergencies that either threaten or could threaten the health and safety of persons, property, or the environment to which the district has been called, including charge for responding to false alarms.

(4) Inspecting structures, plans, and equipment to determine compliance with fire safety codes.

Section 8. Impact fees.—

(1) Pursuant to section 191.009(4), Florida Statutes, it is hereby declared that the cost of new facilities should be borne by new users of the district's services to the extent new construction requires new facilities, but only to that extent. It is the legislative intent of this section to transfer to the new users of the district's fire protection and emergency services a fair share of the costs that new users impose on the district for new facilities. This shall only apply in the event that the general-purpose local government in which the district is located has not adopted an impact fee for fire services which is distributed to the district for construction within its jurisdictional boundaries.

(2) The impact fees collected by the district pursuant to this section shall be kept as a separate fund from other revenues of the district and shall be

used exclusively for the acquisition, purchase, or construction of new facilities or portions thereof required to provide fire protection and emergency services to new construction. "New facilities" means land, buildings, and capital equipment, including, but not limited to, fire and emergency vehicles and radio telemetry equipment. The fees shall not be used for the acquisition, purchase, or construction of facilities which must be obtained in any event, regardless of growth within the district. The board of fire commissioners shall maintain adequate records to ensure that impact fees are expended only for permissible new facilities.

Section 9. Authority to borrow money.—

(1) The board of commissioners shall have the power and authority to borrow money or issue other evidences of indebtedness for the purpose of the district in accordance with chapters 189 and 191, Florida Statutes, provided, however, that the total payments in any one year, including principal and interest, on any indebtedness incurred by the district shall not exceed 50 percent of the total annual budgeted revenues of the district.

(2) The board of commissioners as a body, or any of the members of the board as individuals, shall not be personally or individually liable for the repayment of such loan. Such repayment shall be made out of the receipts of the district, except as provided in this subsection. The commissioners shall not create any indebtedness or incur obligations for any sum or amount which they are unable to repay out of district funds available to them at that time, except as otherwise provided in this act, provided, however, that the commissioners may make purchases of equipment on an installment basis as necessary if funds are available for the payment of the current year's installment on such equipment plus the amount due in that year on any other installments and the repayment of any bank loan or other existing indebtedness which may be due that year.

Section 10. Use of district funds.—No funds of the district shall be used for any purposes other than the administration of the affairs and business of the district; the payment of salaries and expenses to commissioners; the construction, care, maintenance, upkeep, operation, and purchase of fire-fighting and rescue equipment or a fire station or emergency medical station; the payment of public utilities; the payment of salaries of district personnel; the payment of expenses of volunteers; the payment to the Key Largo Volunteer Fire and Rescue Department, Inc., and the Key Largo Volunteer Ambulance Corps; and such other payment and expenses as the board may from time to time determine to be necessary for the operations and effectiveness of the district.

Section 11. Record of board meetings; authority to adopt rules and regulations; annual reports; budget.—

(1) A record shall be kept of all meetings of the board, and in such meetings concurrence of a majority of the commissioners present shall be necessary to any affirmative action by the board.

(2) The board shall have the authority to adopt and amend policies and regulations for the administration of the affairs of the district under the

terms of this act and chapters 189 and 191, Florida Statutes, which shall include, but not be limited to, the authority to adopt the necessary rules and regulations for the administration and supervision of the property and personnel of the district; for the prevention of fires, fire control, fire hydrant placement, and flow testing in accordance with current NFPA rules; and for rescue work within the district.

(3) The board of commissioners shall have the authority to adopt uniform fire prevention ordinances. Such ordinances shall be signed, dated, and recorded with the Clerk of the Court of Monroe County and published as provided by state law. Ordinances shall be effective after publication, which constitutes legal notice of same.

(4) The board shall, on or before November 1, make an annual report of its actions and accounting of its funds as of September of that year and shall file said report in the office of the Clerk of the Circuit Court of Monroe County, whose duty it shall be to receive and file said report and hold and keep the same as a public record.

(5) For the purposes of carrying into effect this act, the board shall annually prepare, consider, and adopt a district budget pursuant to the applicable requirements of chapters 189 and 191, Florida Statutes. The board shall, at the same time as it makes its annual report, file its estimated budget for the fiscal year beginning October 1, which budget shall show the estimated revenue to be received by the district and the estimated expenditures to be incurred by the district in carrying out its operations. The commissioners shall adopt a fiscal year for said fire district, which shall be October 1 to September 30.

Section 12. Authority to enact fire prevention ordinances and enter land; authority to provide fire, rescue, and emergency medical services.—

(1) The board of commissioners shall have the right and power to enact fire prevention ordinances as provided by general law. When the provisions of such fire prevention ordinances are determined by the board to be violated, the office of the state attorney, upon written notice of such violation issued by the board, is authorized to prosecute such person or persons held to be in violation thereof. Any person found guilty of a violation may be punished as provided in chapter 775, Florida Statutes, as a misdemeanor of the second degree. The cost of such prosecution shall be paid out of the district funds, unless otherwise provided by law. The district shall have the authority to appoint a fire marshal, who may be a member of the Key Largo Fire Rescue Department, to carry out the responsibilities of the district fire marshal.

(2) The fire marshal or duly authorized inspector shall be authorized to enter, at all reasonable hours, any building or premises for the purpose of making any inspection or investigation which the State Fire Marshal is authorized to make pursuant to state law and regulation. The owner, lessee, manager, or operator of any building or premises shall permit the district fire marshal or duly authorized inspector to enter and inspect the building or premises at all reasonable hours. The fire marshal or duly authorized

board of commissioners at a regular meeting, the board of commissioners shall thereafter adopt a resolution describing the lands to be included within the district and shall cause such resolution to be duly enrolled in the record of the meeting and a certified copy of the resolution to be recorded in the office of the Clerk of the Circuit Court in Monroe County.

(3) Upon adoption of the resolution by the board, the district shall, pursuant to chapter 191, Florida Statutes, request its legislative delegation to approve said addition and sponsor legislation amending the district boundary. Upon approval by the Legislature, the boundary shall be amended.

(4) In lieu of a petition from the property owners, the Board of County Commissioners of Monroe County by affirmative resolution and the Board of Commissioners of the Key Largo Fire Rescue and Emergency Medical Services District by affirmative resolution may jointly request its legislative delegation to approve the addition of land lying contiguous to the boundaries of the district and sponsor legislation amending the district boundary. Upon approval by the Legislature, the boundary shall be amended.

Section 17. Construction.—This act shall be construed as remedial and shall be liberally construed to promote the purpose for which it is intended.

Section 18. Effect.—In the event that any part of this act should be held void for any reason, such holding shall not affect any other part thereof.

Section 19. Exclusive charter.—This act constitutes the exclusive charter of the Key Largo Fire Rescue and Emergency Medical Services District.

Section 20. On or before October 4, 2005, the Board of County Commissioners of Monroe County shall call and the Supervisor of Elections of Monroe County shall conduct a referendum, to be held in conjunction with a special election, of the qualified voters of the Key Largo Fire Rescue and Emergency Medical Services District on the question of whether the Key Largo Fire Rescue and Emergency Medical Services District may levy ad valorem taxation up to 1 mill pursuant to section 6 of this act.

Section 21. This act shall take effect upon becoming a law, except that the provisions of section 6 which authorize the levy of ad valorem taxation shall take effect only upon express approval by a majority vote of those qualified electors of the Key Largo Fire Rescue and Emergency Medical Services District, as required by Section 9 of Article VII of the State Constitution, voting in the referendum held pursuant to section 20. Such election shall be held in accordance with the provisions of general law relating to elections.

Approved by the Governor June 8, 2005.

Filed in Office Secretary of State June 8, 2005.